Conduct Management

Basic Supervisor's
Personnel Management Course

Overview

DISCIPLINE & ADVERSE ACTIONS
- TPR 752

NON-DISCIPLINARY ACTIONS &
VOLUNTARY ACTIONS
- TPR 715

SUPERVISOR'S HANDBOOK, TPR 752 & 715
Available on the HRO Website at www.wv.ngb.army.mil

DISCIPLINE & ADVERSE ACTIONS

Effects:

- the technician
- co-workers
- supervisor(s)
- the organization
- the technician’s family

DISCIPLINE & ADVERSE ACTIONS

Discipline - Typically taken when a conduct-related incident occurs that warrants action by the supervisor; but less serious than adverse action situations.

Adverse Action - Typically taken by the supervisor for more serious conduct-related incidents; resulting in more severe action(s), such as reassignment, reduction, or removal.

DISCIPLINE & ADVERSE ACTIONS

- Don’t confuse this with performance issues
- It is a performance issue when a technician CAN’T do the work
- Discipline and Adverse Actions are used when a technician WON’T do the work

RESPONSIBILITIES

***The Technician* - behavior/conduct must be appropriate for the workplace.**

***The Supervisor* - ensure that the technician's conduct does not interfere with an orderly and productive work environment.**

- Involve HRO and contact the union
- Gather the facts - document
- Ensure technician has representation, if requested
- Involve HRO and the union
- Ensure actions are IAW regulations and union contract
- Consider individual's circumstances
- Document carefully and completely
- Involve HRO and inform the union

Additional Supervisor Responsibilities

- Ensure workers know expected behavior
- Ensure they know consequences of unacceptable behavior
- Respond to ALL cases; bring to technician's attention immediately
- Remove names/personalities to minimize bias; focus on problem – not person
- Initiate all disciplinary & adverse actions

TYPES OF CORRECTIVE ACTIONS

1) ***Counseling*** - Private exchange; discuss observations and improvement needed

2) Admonition - Private, business-like exchange; advise of observations and possible disciplinary action if no improvement

NOTE: Neither of these is considered a disciplinary action and can't be considered as a first offense when consulting the Table of Penalties.

TYPES OF DISCIPLINARY ACTIONS

1) Letter of Reprimand - Formal, written description of conduct; placed in OPF; actions may be grievable and/or further offenses could result in Adverse Action

2) Adverse Action – impacts pay – reassignment, reduction, or removal

TYPES OF ADVERSE ACTION

- Reassignment to a Lower Graded Position
- Reduction
  - in Grade
  - in Pay (Suspension)
- Removal

MORE ABOUT ADVERSE ACTION

- Get HRO involved; read related laws, regulations, and case precedents
- Have a verifiable reason (cause); be able to support charge(s)
- Show how proposed action will…*"Promote the efficiency of the service."*
- Determine, with HRO assistance, type action to take; prepare Notice of Proposed Adverse

5-STEP ADVERSE ACTION PROCESS

STEP 1.

Notice of Proposed Adverse Action

STEP 2.

Technician's Right to Reply

STEP 3.

Original Decision Letter

STEP 4.

Administrative Appeal

STEP 5.

Final Decision

ADVERSE ACTIONS PROCESS

Step 1. Supervisor, with HRO, prepares the "Notice of Proposed Adverse Action"

- Action proposed and reasons why
- Rationale for penalty selection
- Right to review material
- Right to reply
- Right to excused absence to prepare reply
- HRO availability for assistance

ADVERSE ACTIONS PROCESS

Step 2. Technician has right to reply

(no restrictions prescribed)

- Management must give due consideration

ADVERSE ACTIONS PROCESS

tep 3. Deciding Official provides Original Decision Letter" after HRO revie

- Consider facts and apply Douglas Factors
- Decide upon action
- Determine effective date
- Refer to technician's reply
- Justify reason(s) for decision
- Advise of HRO availability for assistance

ADVERSE ACTIONS PROCESS

tep 4. Processing of the Administrative Appeal, which allows the appellant a choice of:

- Appellate review; or
- Administrative Hearing

In any case, The Adjutant General retains Final Decision Authority.

ADMINISTRATIVE HEARING PROCESS

1. The HRO makes all hearing arrangements.
2. A Pre-hearing may be held on the day before to clarify the process and resolve any problems.
3. The hearing is held to discover all the facts.
4. The examiner's recommendation is sent to the Adjutant General through the HRO, with copies to NGB and the appellant.
5. The Adjutant General decides – Final Authority

ADVERSE ACTIONS PROCESS

Step 5. The "Final Decision", The Adjutant General must address:

- Are the charges accurate/substantiated?
- Will discipline promote the efficiency of the service?
- Is the selected penalty appropriate to the offense?

OTHER ISSUES TO CONSIDER

- The union may want to represent the appellant; this is an appropriate role.
- You must prove a clear relationship between the offense and the penalty selected.
- The Adjutant General may award attorney fees only if the technician is the prevailing party
- The reasons for taking disciplinary actions must be recorded. Document situation specifics, any counselings, warnings, and oral admonishments, and union notification and involvement

OTHER ISSUES TO CONSIDER

(CONTINUED)

- Is there a need to contact the EAP manager about the conduct?
- Consider informal mediation.
- Under no circumstances initiate an Adverse Action without the assistance of the HRO.

DOCUMENT!
DOCUMENT!
DOCUMENT!

SECTION B: -715

NON-DISCIPLINARY ACTIONS & VOLUNTARY ACTIONS

- Non-Disciplinary Actions – Management initiated; not for cause

- Voluntary Actions – Technician initiated

NON-DISCIPLINARY ACTIONS

- Loss of military membership/loss of technician status
- Removal of technician from position due to failure to meet a condition of employment
- Management Directed Reassignment
- Enforced leave
- Furlough of 30 days or less
- Transfer of function

NON-DISCIPLINARY ACTIONS

These type of actions are those that are:

- Driven by failure to meet National Guard conditions of employment

OR

- Necessitated by program changes requiring involuntary staffing changes

LOSS OF MILITARY MEMBERSHIP

(Established by National Guard Technician Act 1968

and reemphasized by P.L. 104-106, signed in Feb 96)

- A technician who fails to maintain military membership MUST be promptly separated from technician service
- Separation must occur as close to military separation as possible – following a 30 day notice period (concurrently!)

REMOVAL FROM POSITION FOR FAILURE TO MEET POSITION REQUIREMENTS

- Compatible military assignment
- Appropriate military appointment
- Flying Status
- Security Clearance
- Job-required licenses/certifications

MANAGEMENT-DIRECTED REASSIGNMENT

- Movement of technician from one position to another with same grade and pay
- If to a lower grade may require processing under TPR 752 or TPR 430
- Must be provided reasonable advance notice
- Must meet qualifications for new position
- If negotiated, the right to grieve
- No right to an administrative hearing

ENFORCED LEAVE

- ***Management must have the technician leave the work site if/when…*** The technician is not ready, willing, AND able to perform assigned duties; ***OR*** The technician's continued presence is highly undesirable or presents a threat

- ***In emergency situations, the supervisor must…***
  - Remove the technician from the work site and place him/her in appropriate leave status
- ***When emergency is resolved…***

Discontinue enforced leave and offer technician choice of approved paid leave or LWOP

(If acceptable resolution – business as usual

Furlough of 30 Days or Less

- Need legitimate reasons
- Must honor negotiated agreements
- May request TAG review

Transfer of Function

- TPR 351 established procedures
- Also review CBA

VOLUNTARY ACTIONS

- Resignation
- Voluntary Change to Lower Grade
- Optional Retirement
- Abandonment of Position

RESIGNATIONS

- Technician makes decisions relative to notice, effective date and time
- Not required to be written
- Supervisor completes SF 52: technician signs back or letter of resignation is attached
- Technician can withdraw resignation prior to effective date/time
- Management must honor withdrawal, unless position is to be abolished or is obligated

VOLUNTARY CHANGE TO LOWER GRADE

- A voluntary, written request to be placed in a position at a lower grade without right to retained grade or pay
- Cannot be in response to competitive advertisement
- Must meet qualifications for other position
- Withdrawal requirements and conditions are the same as for resignations

OPTIONAL RETIREMENT

- Encompasses same conditions and requirements as for resignations
- One exception is that the request for optional retirement and/or its withdrawal must be in writing

ABANDONMENT OF POSITION

- Involves failure of a technician to report for work for a reasonable period of time, with the supervisor unable to ascertain the technician's intention of returning.
- Reasonable period of time has been defined by TPR 715 as "usually 10 calendar days" but that is not firm

PERFORMANCE MANAGEMENT VERSUS CONDUCT MANAGEMENT

Performance Management (-430)

- Involves “can’t”
- Often resolved by training

Conduct Management (-752)

- Involves “won’t”
- Most often requires discipline or adverse actions

Questions